

KEYWORD: Financial

DIGEST: Applicant's financial irresponsibility renders her an unsuitable candidate for a security clearance. Clearance denied.

CASENO: 06-24081.h1

DATE: 09/28/2007

DATE: September 28, 2007

_____)	
In Re:)	
)	
-----)	ISCR Case No. 06-24081
SSN: -----)	
)	
Applicant for Security Clearance)	
_____)	

**DECISION OF ADMINISTRATIVE JUDGE
JOHN GRATTAN METZ, JR**

APPEARANCES

FOR GOVERNMENT

Emilio Jaksetic, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's financial irresponsibility renders her an unsuitable candidate for a security clearance. Clearance denied.

STATEMENT OF THE CASE

_____ Applicant challenges the 23 April 2007 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of her clearance because of financial considerations and personal conduct.¹ Applicant answered the SOR 14 May 2007, and requested a hearing. The case was assigned to me 5 July 2007, and I convened a hearing 20 August 2007. DOHA received the transcript (Tr.) 29 August 2007.

FINDINGS OF FACT

Applicant admitted the financial allegations of the SOR, except for ¶¶ 1.a., 1.b., 1.c., 1.g., and 1.f. Accordingly, I incorporate her admissions as findings of fact. She is a 31-year-old accounting clerk for a defense contractor since January 2005. She appears to have held a clearance in 1995.

The SOR alleges 11 delinquent debts totaling over \$12,000. Each of these debts is documented in Applicant's credit reports, including credit reports she submitted to support her case. Applicant admits six debts totaling over \$9,000, including a deficiency amount of over \$8000 for a repossessed automobile. She attributes her financial difficulties to several periods of unemployment she experienced between May 1999 and February 2004 as well as her own negligence in dealing with her financial responsibilities. Her financial troubles are compounded by the fact that she is a single mother of three children, ages 14, 11, and 1, who receives no child support from the fathers.

As a result of a subject interview during her background investigation in May 2006, she realized that her financial troubles raised security concerns. In September 2006, she began working with a credit counseling organization to optimize her credit profile and credit scores. As a result of those efforts, Applicant succeeded in getting a number of accounts deleted from her credit reports, including the debts alleged at SOR 1.a. and 1.f., which I conclude in her favor. However, it does not appear how much actual credit counseling is being done, and Applicant does not appear to be operating with any kind of budget. She states that she is trying to make payment arrangements with her creditors, but does not appear to have reached any firm agreements or begun any repayment of her acknowledged debts.

Applicant's mother testified and confirmed Applicant's periods of unemployment. However, she also testified that she provides fairly regular support for her daughter—most recently paying for back-to-school shopping for the two older children. In addition, Applicant's Exhibit (A.E.) C shows that in the 60 days between 18 May 2007 and 16 July 2007, she paid \$245 in non-sufficient funds and overdraft fees on her checking account.

POLICIES AND BURDEN OF PROOF

¹Required by Executive Order 10865 and Department of Defense Directive 5220.6, as amended and modified—most recently in August 2006 (Directive).

The Directive, Enclosure 2 lists adjudicative guidelines to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3. of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed whenever a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.²

CONCLUSIONS

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Government records document over \$10,000 of delinquent debt that Applicant is currently unable to pay, and for which she has not established repayment plans.³

Applicant meets none of the mitigating factors for financial considerations. Her financial difficulties are both recent and multiple;⁴ indeed they appear to be ongoing. Her debts are only partly due to circumstances beyond her control, and she has not acted responsibly in addressing her debts.⁵ The program she joined appears to be aimed more at improving her credit reports than actual credit

²See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

³¶19.(a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations; (e) consistently spending beyond one's means. . .

⁴¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁵¶20.(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

counseling or otherwise bringing the problem under control.⁶ Further, Applicant has taken no verifiable steps to address her debts.⁷ Even if I assumed that she would soon be reaching settlement agreements with her creditors, there is nothing in the record to suggest that Applicant would be able to keep up with any repayment plans or remain financially stable in the future. I conclude Guideline F against Applicant.

FORMAL FINDINGS

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph a:	For Applicant
Subparagraph b:	Against Applicant
Subparagraph c:	Against Applicant
Subparagraph d:	Against Applicant
Subparagraph e:	Against Applicant
Subparagraph f:	For Applicant
Subparagraph g:	Against Applicant
Subparagraph h:	Against Applicant
Subparagraph i:	Against Applicant
Subparagraph j:	Against Applicant
Subparagraph k:	Against Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

John G. Metz, Jr.
Administrative Judge

⁶¶20.(c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

⁷¶20.(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.